

1-1 By: Janek S.B. No. 409
1-2 (In the Senate - Filed February 1, 2007; February 21, 2007,
1-3 read first time and referred to Committee on Health and Human
1-4 Services; April 2, 2007, reported adversely, with favorable
1-5 Committee Substitute by the following vote: Yeas 9, Nays 0;
1-6 April 2, 2007, sent to printer.)

1-7 COMMITTEE SUBSTITUTE FOR S.B. No. 409 By: Janek

1-8 A BILL TO BE ENTITLED
1-9 AN ACT

1-10 relating to restrictions on the interchange of anti-epileptic drugs
1-11 and drugs used to treat or prevent seizures.

1-12 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-13 SECTION 1. Subchapter A, Chapter 562, Occupations Code, is
1-14 amended by adding Section 562.0141 to read as follows:

1-15 Sec. 562.0141. ANTI-EPILEPTIC DRUG PRODUCT SELECTION
1-16 PROHIBITED. (a) In this section:

1-17 (1) "Anti-epileptic drug" means:

1-18 (A) any drug prescribed for the treatment of
1-19 epilepsy; or

1-20 (B) a drug used to treat or prevent seizures.

1-21 (2) "Epilepsy" means a neurological condition
1-22 characterized by recurrent seizures.

1-23 (3) "Seizure" means an acute clinical change secondary
1-24 to a brief disturbance in the electrical activity of the brain.

1-25 (4) "Interchange" means the substitution of one
1-26 version of the same anti-epileptic drug, including a generic
1-27 version for the prescribed brand, a brand version for the
1-28 prescribed generic version, a generic version by one manufacturer
1-29 for a generic version by a different manufacturer, a different
1-30 formulation of the prescribed anti-epileptic drug or a different
1-31 anti-epileptic drug for the anti-epileptic drug originally
1-32 prescribed.

1-33 (b) Notwithstanding Section 562.014, a pharmacist may not
1-34 interchange an anti-epileptic drug or formulation of an
1-35 anti-epileptic drug, brand or generic, for the treatment of a
1-36 patient with seizures or epilepsy without prior notification of and
1-37 the signed informed consent of such interchange from the
1-38 prescribing physician.

1-39 (c) To comply with Subsection (b), a pharmacist may document
1-40 the notification of a prescribing physician and secure the informed
1-41 written consent of such physician by contacting the physician
1-42 orally or electronically to secure permission to interchange an
1-43 anti-epileptic drug or formulation of an anti-epileptic drug, brand
1-44 or generic, and reducing such consent to writing. If the
1-45 prescribing physician does not authorize a substitute, such denial
1-46 shall also be documented in the same manner and format. A copy of
1-47 such communication shall be forwarded to the physician and a copy
1-48 kept with the records of the pharmacist. The documented
1-49 notification and consent under this subsection shall be considered
1-50 as a statement that the prescription is "brand medically necessary"
1-51 and shall be considered part of the prescription, if applicable.

1-52 SECTION 2. Section 562.009, Occupations Code, is amended by
1-53 adding Subsection (e) to read as follows:

1-54 (e) If the prescription is for an "anti-epileptic drug" as
1-55 defined by Section 562.0141(a)(1), the pharmacist must comply with
1-56 the provisions of Section 562.0141.

1-57 SECTION 3. This Act takes effect immediately if it receives
1-58 a vote of two-thirds of all the members elected to each house, as
1-59 provided by Section 39, Article III, Texas Constitution. If this
1-60 Act does not receive the vote necessary for immediate effect, this
1-61 Act takes effect September 1, 2007.

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